

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1956, 2332b, 2339, 2339A, 3592 of this title.

**§ 2281. Violence against maritime fixed platforms**

## (a) OFFENSES.—

(1) IN GENERAL.—A person who unlawfully and intentionally—

(A) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

(B) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

(C) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

(D) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

(E) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (D); or

(F) attempts or conspires to do anything prohibited under subparagraphs (A) through (E),

shall be fined under this title, imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

(2) THREAT TO SAFETY.—A person who threatens to do anything prohibited under paragraph (1)(B) or (C), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title, imprisoned not more than 5 years, or both.

(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

(1) such activity is committed against or on board a fixed platform—

(A) that is located on the continental shelf of the United States;

(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

(C) in an attempt to compel the United States to do or abstain from doing any act;

(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is pro-

hibited as a felony under the law of the State in which it was committed. For purposes of this section, the term “labor dispute” has the meaning set forth in section 2(c)<sup>1</sup> of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)), and the term “State” means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

## (d) DEFINITIONS.—In this section—

“continental shelf” means the sea-bed and subsoil of the submarine areas that extend beyond a country’s territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea.

“fixed platform” means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

“national of the United States” has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

“territorial sea of the United States” means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

“United States”, when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.

(Added Pub. L. 103-322, title VI, §60019(a), Sept. 13, 1994, 108 Stat. 1977; amended Pub. L. 104-132, title VII, §723(a)(1), Apr. 24, 1996, 110 Stat. 1300; Pub. L. 104-294, title VI, §607(p), Oct. 11, 1996, 110 Stat. 3513.)

## AMENDMENTS

1996—Subsec. (a)(1)(F). Pub. L. 104-132 inserted “or conspires” after “attempts”.

Subsec. (c). Pub. L. 104-294 inserted before period at end “, and the term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States”.

## EFFECTIVE DATE

Section effective Mar. 6, 1995, see section 60019(c)(1), (2)(B) of Pub. L. 103-322, set out as a note under section 2280 of this title.

## TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1956, 2332b, 2339A, 3592 of this title.

**CHAPTER 113—STOLEN PROPERTY**

## Sec.

2311. Definitions.

2312. Transportation of stolen vehicles.

2313. Sale or receipt of stolen vehicles.

2314. Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting.

<sup>1</sup> So in original. Probably should be section “13(c)”.

- Sec.  
 2315. Sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps.  
 2316. Transportation of livestock.  
 2317. Sale or receipt of livestock.  
 2318. Trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, and copies of motion pictures or other audio visual works, and trafficking in counterfeit computer program documentation or packaging.  
 2319. Criminal infringement of a copyright.  
 2319A. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances.  
 2320. Trafficking in counterfeit goods or services.  
 2321. Trafficking in certain motor vehicles or motor vehicle parts.  
 2322. Chop shops.

## AMENDMENTS

1996—Pub. L. 104-153, §4(b)(2), July 2, 1996, 110 Stat. 1387, substituted “Trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, and copies of motion pictures or other audio visual works, and trafficking in counterfeit computer program documentation or packaging” for “Trafficking in counterfeit labels for phonorecords and copies of motion pictures or other audiovisual works” in item 2318.

1994—Pub. L. 103-465, title V, §513(b), Dec. 8, 1994, 108 Stat. 4976, added item 2319A.

1992—Pub. L. 102-519, title I, §105(b), Oct. 25, 1992, 106 Stat. 3386, added item 2322.

1986—Pub. L. 99-646, §42(b), Nov. 10, 1986, 100 Stat. 3601, renumbered item 2320 relating to trafficking in certain motor vehicles or motor vehicle parts as item 2321.

1984—Pub. L. 98-547, title II, §204(b), Oct. 25, 1984, 98 Stat. 2770, added item 2320 relating to trafficking in certain motor vehicles or motor vehicle parts.

Pub. L. 98-473, title II, §§1115, 1502(b), Oct. 12, 1984, 98 Stat. 2149, 2179, substituted “livestock” for “cattle” in items 2316 and 2317 and added item 2320 relating to trafficking in counterfeit goods or services.

1982—Pub. L. 97-180, §4, May 24, 1982, 96 Stat. 92, substituted “Trafficking in counterfeit labels for phonorecords and copies of motion pictures or other audiovisual works” for “Transportation, sale, or receipt of phonograph records bearing forged or counterfeit labels” in item 2318 and added item 2319.

1962—Pub. L. 87-773, §2, Oct. 9, 1962, 76 Stat. 775, added item 2318.

1961—Pub. L. 87-371, §4, Oct. 4, 1961, 75 Stat. 802, inserted “fraudulent State tax stamps,” in item 2314, and substituted “moneys, or fraudulent State tax stamps” for “or monies” in item 2315.

## § 2311. Definitions

As used in this chapter:

“Aircraft” means any contrivance now known or hereafter invented, used, or designed for navigation of or for flight in the air;

“Cattle” means one or more bulls, steers, oxen, cows, heifers, or calves, or the carcass or carcasses thereof;

“Livestock” means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, llamas, goats, fowl, sheep, buffalo, and cattle, or the carcasses thereof;

“Money” means the legal tender of the United States or of any foreign country, or any counterfeit thereof;

“Motor vehicle” includes an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designed for running on land but not on rails;

“Securities” includes any note, stock certificate, bond, debenture, check, draft, warrant, traveler’s check, letter of credit, warehouse receipt, negotiable bill of lading, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate; valid or blank motor vehicle title; certificate of interest in property, tangible or intangible; instrument or document or writing evidencing ownership of goods, wares, and merchandise, or transferring or assigning any right, title, or interest in or to goods, wares, and merchandise; or, in general, any instrument commonly known as a “security”, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, warrant, or right to subscribe to or purchase any of the foregoing, or any forged, counterfeited, or spurious representation of any of the foregoing;

“Tax stamp” includes any tax stamp, tax token, tax meter imprint, or any other form of evidence of an obligation running to a State, or evidence of the discharge thereof;

“Value” means the face, par, or market value, whichever is the greatest, and the aggregate value of all goods, wares, and merchandise, securities, and money referred to in a single indictment shall constitute the value thereof.

(June 25, 1948, ch. 645, 62 Stat. 805; Pub. L. 87-371, §1, Oct. 4, 1961, 75 Stat. 802; Pub. L. 98-547, title II, §202, Oct. 25, 1984, 98 Stat. 2770; Pub. L. 103-322, title XXXII, §320912, Sept. 13, 1994, 108 Stat. 2128; Pub. L. 104-294, title VI, §604(b)(20), Oct. 11, 1996, 110 Stat. 3507; Pub. L. 107-273, div. B, title IV, §4002(b)(8), Nov. 2, 2002, 116 Stat. 1808.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§408, 414(b), (c), 417, 419a(a) (Oct. 29, 1919, ch. 89, §2(a), 41 Stat. 324; May 22, 1934, ch. 333, §2(b), (c), 5, 48 Stat. 794, 795; Aug. 3, 1939, ch. 413, §3, 53 Stat. 1178; Aug. 18, 1941, ch. 366, §2(a), 55 Stat. 631; Sept. 24, 1945, ch. 383, §1, 59 Stat. 536).

The definitive provisions in each of said sections were separated therefrom and consolidated into this one section defining terms used in this chapter.

The definitions of “interstate or foreign commerce”, contained in said section 408 and in sections 414(a) and 419a(b) of title 18, U.S.C., 1940 ed., are incorporated in section 10 of this title.

Other provisions of section 408 of title 18, U.S.C., 1940 ed., are incorporated in sections 2312 and 2313 of this title.

In the definition of “motor vehicle”, words “designed for running on land but not on rails” were substituted for “not designed for running on rails” so as to conform with the ruling in the case of *McBoyle v. U.S.* (1931, 51 S. Ct. 340, 283, U. S. 25, 75 L. Ed. 816), in which the Supreme Court held that “vehicle” is limited to vehicles running on land and that motor vehicle does not include an airplane.

In the paragraph defining “value” which came from said section 417 of title 18, U.S.C., 1940 ed., words “In the event that a defendant is charged in the same indictment with two or more violations of sections 413-419 of this title, then” were omitted and the same meaning was preserved by the substitution of the words “a single” for the word “such.”

Minor changes were made in phraseology.

## AMENDMENTS

2002—Pub. L. 107-273 substituted semicolon for period at end of third par.

1996—Pub. L. 104-294 substituted “Livestock” for “livestock” in third par.

1994—Pub. L. 103-322 inserted definition of “livestock”.

1984—Pub. L. 98-547 inserted “valid or blank motor vehicle title;” in definition of “Securities”.

1961—Pub. L. 87-371 inserted definition of “Tax stamp”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of this title.

#### SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105-147, §1, Dec. 16, 1997, 111 Stat. 2678, provided that: “This Act [amending sections 2319 to 2320 of this title, sections 101, 506, and 507 of Title 17, Copyrights, and section 1498 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as a note under section 994 of Title 28] may be cited as the ‘No Electronic Theft (NET) Act’.”

#### SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-153, §1, July 2, 1996, 110 Stat. 1386, provided that: “This Act [amending sections 1961, 2318, and 2320 of this title, sections 1116 and 1117 of Title 15, Commerce and Trade, section 603 of Title 17, Copyrights, sections 1431, 1484, and 1526 of Title 19, Customs Duties, and section 80302 of Title 49, Transportation, and enacting provisions set out as notes under this section and section 1431 of Title 19] may be cited as the ‘Anticounterfeiting Consumer Protection Act of 1996’.”

#### SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-519, §1, Oct. 25, 1992, 106 Stat. 3384, provided that: “This Act [enacting sections 2119 and 2322 of this title, sections 2026a to 2026c and 2041 to 2044 of Title 15, Commerce and Trade, sections 1646b and 1646c of Title 19, Customs Duties, and sections 3750a to 3750d of Title 42, The Public Health and Welfare, amending sections 553, 981, 982, 2312, and 2313 of this title, sections 2021 to 2023, 2025, 2027, and 2034 of Title 15, and enacting provisions set out as notes under section 2119 of this title, sections 2026a, 2026b, and 2041 of Title 15, and section 1646b of Title 19] may be cited as the ‘Anti Car Theft Act of 1992’.”

#### SHORT TITLE OF 1984 AMENDMENTS

Section 1(a) of Pub. L. 98-547 provided that: “This Act [enacting sections 511, 512, 553, and 2320 [now 2321] of this title, sections 2021 to 2034 of Title 15, Commerce and Trade, and section 1627 of Title 19, Customs Duties, amending this section, sections 1961 and 2313 of this title, and section 1901 of Title 15, and enacting provisions set out as a note under section 2021 of Title 15] may be cited as the ‘Motor Vehicle Theft Law Enforcement Act of 1984’.”

Section 1501 of chapter XV (§§1501-1503) of title II of Pub. L. 98-473 provided that: “This chapter [enacting section 2320 of this title and amending sections 1116, 1117, and 1118 of Title 15, Commerce and Trade] may be cited as the ‘Trademark Counterfeiting Act of 1984’.”

#### SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97-180, §1, May 24, 1982, 96 Stat. 91, provided: “That this Act [enacting section 2319 of this title and amending section 2318 of this title and section 506 of Title 17, Copyrights] may be cited as the ‘Piracy and Counterfeiting Amendments Act of 1982’.”

#### COUNTERFEITING OF TRADEMARKED AND COPYRIGHTED MERCHANDISE; CONGRESSIONAL STATEMENT OF FINDINGS

Pub. L. 104-153, §2, July 2, 1996, 110 Stat. 1386, provided that: “The counterfeiting of trademarked and copyrighted merchandise—

- “(1) has been connected with organized crime;
- “(2) deprives legitimate trademark and copyright owners of substantial revenues and consumer goodwill;

“(3) poses health and safety threats to United States consumers;

“(4) eliminates United States jobs; and

“(5) is a multibillion-dollar drain on the United States economy.”

#### CONGRESSIONAL DECLARATION OF PURPOSE OF 1984 AMENDMENT

Section 2 of Pub. L. 98-547 provided that: “It is the purpose of this Act [see Short Title of 1984 Amendments note above]—

“(1) to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft;

“(2) to augment the Federal criminal penalties imposed upon persons trafficking in stolen motor vehicles;

“(3) to encourage decreases in premiums charged consumers for motor vehicle theft insurance; and

“(4) to reduce opportunities for exporting or importing stolen motor vehicles and off-highway mobile equipment.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 667 of this title.

### § 2312. Transportation of stolen vehicles

Whoever transports in interstate or foreign commerce a motor vehicle or aircraft, knowing the same to have been stolen, shall be fined under this title or imprisoned not more than 10 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 806; Pub. L. 102-519, title I, §103, Oct. 25, 1992, 106 Stat. 3385.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §408 (Oct. 29, 1919, ch. 89, §§1, 3, 5, 41 Stat. 324, 325; Sept. 24, 1945, ch. 383, §§2, 3, 59 Stat. 536).

The first sentence of said section 408, providing the short title “An Act to punish the transportation of stolen motor vehicles or aircraft in interstate or foreign commerce,” and derived from section 1 of said act of October 29, 1919, as amended, was omitted as not appropriate in a revision.

Definitions of “aircraft,” “motor vehicle,” and “interstate or foreign commerce,” which constituted the second sentence of said section 408 of title 18, U.S.C., 1940 ed., and were derived from section 2 of said act of October 29, 1919, as amended, are incorporated in sections 10 and 2311 of this title.

Provision relating to receiving or selling stolen aircraft or motor vehicles, which was derived from section 4 of the act of October 29, 1919, as amended, is incorporated in section 2313 of this title.

Venue provision, which was derived from section 5 of the act of October 29, 1919, was omitted as unnecessary, being covered by section 3237 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of “principal” in section 2 of this title.

Minor changes were made in phraseology.

#### AMENDMENTS

1992—Pub. L. 102-519 substituted “fined under this title or imprisoned not more than 10 years” for “fined not more than \$5,000 or imprisoned not more than five years”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 981, 982, 1961, 2516 of this title.

### § 2313. Sale or receipt of stolen vehicles

(a) Whoever receives, possesses, conceals, stores, barter, sells, or disposes of any motor

vehicle or aircraft, which has crossed a State or United States boundary after being stolen, knowing the same to have been stolen, shall be fined under this title or imprisoned not more than 10 years, or both.

(b) For purposes of this section, the term “State” includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 806; Pub. L. 98-547, title II, §203, Oct. 25, 1984, 98 Stat. 2770; Pub. L. 101-647, title XII, §1205(1), Nov. 29, 1990, 104 Stat. 4831; Pub. L. 102-519, title I, §103, Oct. 25, 1992, 106 Stat. 3385.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §408 (Oct. 29, 1919, ch. 89, §4, 41 Stat. 325; Sept. 24, 1945, ch. 383, §§2, 3, 59 Stat. 536).

Section constitutes the fourth sentence of said section 408 of title 18, U.S.C., 1940 ed.

Definitions of “aircraft,” “motor vehicle,” and “interstate or foreign commerce,” which constituted the second sentence of said section 408, are incorporated in sections 10 and 2311 of this title.

The third sentence of said section 408, relating to transporting stolen aircraft or motor vehicles, is incorporated in section 2312 of this title.

The first sentence of said section 408, providing the short title, and the fifth sentence thereof, relating to venue, were omitted. (See reviser’s note under section 2312 of this title.)

Minor changes were made in phraseology.

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-519 substituted “fined under this title or imprisoned not more than 10 years” for “fined not more than \$5,000 or imprisoned not more than five years”.

1990—Pub. L. 101-647 designated existing provisions as subsec. (a) and added subsec. (b).

1984—Pub. L. 98-547 inserted “possesses,” after “receives,” and substituted “which has crossed a State or United States boundary after being stolen,” for “moving as, or which is a part of, or which constitutes interstate or foreign commerce,”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 981, 982, 1961, 2516 of this title.

### § 2314. Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting

Whoever transports, transmits, or transfers in interstate or foreign commerce any goods, wares, merchandise, securities or money, of the value of \$5,000 or more, knowing the same to have been stolen, converted or taken by fraud; or

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transports or causes to be transported, or induces any person or persons to travel in, or to be transported in interstate or foreign commerce in the execution or concealment of a scheme or artifice to defraud that person or those persons of money or property having a value of \$5,000 or more; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce

any falsely made, forged, altered, or counterfeited securities or tax stamps, knowing the same to have been falsely made, forged, altered, or counterfeited; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce any traveler’s check bearing a forged countersignature; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce, any tool, implement, or thing used or fitted to be used in falsely making, forging, altering, or counterfeiting any security or tax stamps, or any part thereof—

Shall be fined under this title or imprisoned not more than ten years, or both.

This section shall not apply to any falsely made, forged, altered, counterfeited or spurious representation of an obligation or other security of the United States, or of an obligation, bond, certificate, security, treasury note, bill, promise to pay or bank note issued by any foreign government. This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money.

(June 25, 1948, ch. 645, 62 Stat. 806; May 24, 1949, ch. 139, §45, 63 Stat. 96; July 9, 1956, ch. 519, 70 Stat. 507; Pub. L. 87-371, §2, Oct. 4, 1961, 75 Stat. 802; Pub. L. 90-535, Sept. 28, 1968, 82 Stat. 885; Pub. L. 100-690, title VII, §§7057, 7080, Nov. 18, 1988, 102 Stat. 4402, 4406; Pub. L. 101-647, title XII, §1208, Nov. 29, 1990, 104 Stat. 4832; Pub. L. 103-322, title XXXIII, §330016(1)(K), (L), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

##### 1948 ACT

Based on title 18, U.S.C., 1940 ed., §§413, 415, 418, 418a, 419 (May 22, 1934, ch. 333, §§1, 3, 6, 48 Stat. 794, 795; May 22, 1934, ch. 333, §7, as added Aug. 3, 1939, ch. 413, §5, 53 Stat. 1179; May 22, 1934, ch. 333, §7, renumbered §8 by Aug. 3, 1939, ch. 413, §6, 53 Stat. 1179; Aug. 3, 1939, ch. 413, §§1, 4, 5, 53 Stat. 1178, 1179).

Section consolidates sections 413, 415, 417, 418, 418a, and 419 of title 18, U.S.C., 1940 ed.

Words “or with intent to steal or purloin, knowing the same to have been so stolen, converted, or taken” were omitted as surplusage, since property so “taken” is “stolen,” and insertion of word “knowingly” after “Whoever” at beginning of section renders such omission possible.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of “principal” in section 2 of this title.

Section 413 of title 18, U.S.C., 1940 ed., providing the short title “National Stolen Property Act,” was omitted as not appropriate in a revision.

Section 414 of title 18, U.S.C., 1940 ed., containing definitions of “interstate or foreign commerce,” “securities,” and “money,” is incorporated in sections 10 and 2311 of this title.

Section 417 of title 18, U.S.C., 1940 ed., relating to indictments and determination of “value” of goods, wares, merchandise, securities, and money referred to in indictments, is also incorporated in section 2311 of this title.

Section 418 of title 18, U.S.C., 1940 ed., relating to venue, was omitted as completely covered by section 3237 of this title.

Section 418a of title 18, U.S.C., 1940 ed., relating to conspiracy, was omitted as covered by section 371 of this title, the general conspiracy section.

Section 419 of title 18, U.S.C., 1940 ed., providing that nothing contained in the National Stolen Property Act should be construed to repeal, modify, or amend any part of the National Motor Vehicle Theft Act, was omitted as unnecessary, in view of this revision and re-enactment of the provisions of the latter act (sections 10, 2311–2313 of this title).

Changes were made in phraseology and arrangement.

#### 1949 ACT

This amendment [see section 45] restates and clarifies the first paragraph of section 2314 of title 18, U.S.C., to conform to the original law upon which the section is based.

#### AMENDMENTS

1994—Pub. L. 103–322, §330016(1)(L), substituted “fined under this title” for “fined not more than \$10,000” in penultimate par.

Pub. L. 103–322, §330016(1)(K), which directed the amendment of this section by striking “not more than \$5,000” and inserting “under this title”, could not be executed because the phrase “not more than \$5,000” did not appear in text.

1990—Pub. L. 101–647 inserted “or foreign” after “interstate” in second par.

1988—Pub. L. 100–690, §7057(a), substituted “transports, transmits, or transfers” for “transports” in first par.

Pub. L. 100–690, §7080, inserted “or persons” after “any person” and “or those persons” after “that person” in second par.

Pub. L. 100–690, §7057(b), struck out “or by a bank or corporation of any foreign country” after “foreign government” in last par. and inserted at end “This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money.”

1968—Pub. L. 90–535 prohibited transportation with unlawful or fraudulent intent in interstate or foreign commerce of traveler’s checks bearing forged countersignatures.

1961—Pub. L. 87–371 inserted “or tax stamps” after “securities” in third par. and after “security” in fourth par., and “fraudulent State tax stamps,” in section catchline.

1956—Act July 9, 1956, inserted par. relating to interstate transportation of persons in schemes to defraud.

1949—Act May 24, 1949, substituted “knowing the same to have been stolen, converted or taken by fraud” for “theretofore stolen, converted, or taken by fraud” in first par.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961, 2516 of this title; title 7 section 12a.

### § 2315. Sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps

Whoever receives, possesses, conceals, stores, barter, sells, or disposes of any goods, wares, or merchandise, securities, or money of the value of \$5,000 or more, or pledges or accepts as security for a loan any goods, wares, or merchandise, or securities, of the value of \$500 or more, which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken, knowing the same to have been stolen, unlawfully converted, or taken; or

Whoever receives, possesses, conceals, stores, barter, sells, or disposes of any falsely made, forged, altered, or counterfeited securities or tax stamps, or pledges or accepts as security for a loan any falsely made, forged, altered, or

counterfeited securities or tax stamps, moving as, or which are a part of, or which constitute interstate or foreign commerce, knowing the same to have been so falsely made, forged, altered, or counterfeited; or

Whoever receives in interstate or foreign commerce, or conceals, stores, barter, sells, or disposes of, any tool, implement, or thing used or intended to be used in falsely making, forging, altering, or counterfeiting any security or tax stamp, or any part thereof, moving as, or which is a part of, or which constitutes interstate or foreign commerce, knowing that the same is fitted to be used, or has been used, in falsely making, forging, altering, or counterfeiting any security or tax stamp, or any part thereof—

Shall be fined under this title or imprisoned not more than ten years, or both.

This section shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of an obligation or other security of the United States or of an obligation, bond, certificate, security, treasury note, bill, promise to pay, or bank note, issued by any foreign government. This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money.

For purposes of this section, the term “State” includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 806; Pub. L. 87–371, §3, Oct. 4, 1961, 75 Stat. 802; Pub. L. 99–646, §76, Nov. 10, 1986, 100 Stat. 3618; Pub. L. 100–690, title VII, §§7048, 7057(b), Nov. 18, 1988, 102 Stat. 4401, 4402; Pub. L. 101–647, title XII, §1205(m), Nov. 29, 1990, 104 Stat. 4831; Pub. L. 103–322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §416 (May 22, 1934, ch. 333, §4, 48 Stat. 795; Aug. 3, 1939, ch. 413, §2, 53 Stat. 1178).

(See reviser’s notes under sections 10, 2311 and 2314 of this title for explanation of consolidation or omission of other sections of title 18, U.S.C., 1940 ed., which were derived from the National Stolen Property Act.)

Minor changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103–322 substituted “fined under this title” for “fined not more than \$10,000” in fourth par.

1990—Pub. L. 101–647 inserted par. at end defining “State”.

1988—Pub. L. 100–690, §7048, substituted “moving as, or which are a part of, or which constitute interstate or foreign commerce” for “which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken” in second par.

Pub. L. 100–690, §7057(b), struck out “or by a bank or corporation of any foreign country” after “foreign government” in last par. and inserted at end “This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money.”

1986—Pub. L. 99–646 substituted “receives, possesses, conceals” for “receives, conceals” and “which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken” for “moving as,

or which are part of, or which constitute interstate or foreign commerce” in first and second pars.

1961—Pub. L. 87-371 inserted “or tax stamps” after “securities”, wherever appearing, in second par., and “or tax stamp” after “security”, wherever appearing, in third par., and substituted “moneys, or fraudulent State tax stamps” for “or monies” in section catchline.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961, 2516 of this title.

### § 2316. Transportation of livestock

Whoever transports in interstate or foreign commerce any livestock, knowing the same to have been stolen, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 807; Pub. L. 98-473, title II, §1113, Oct. 12, 1984, 98 Stat. 2149; Pub. L. 103-322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§419b, 419d (Aug. 18, 1941, ch. 366, §§3, 5, 55 Stat. 631).

This section consolidates sections 419b and 419d of title 18, U.S.C., 1940 ed.

Definition of “cattle”, contained in section 419a(a) of title 18, U.S.C., 1940 ed., is incorporated in section 2311 of this title.

Definition of “interstate or foreign commerce”, constituting section 419a(b) of title 18, U.S.C., 1940 ed., is incorporated in section 10 of this title.

The venue provision of said section 419d of title 18, U.S.C., 1940 ed., was omitted as completely covered by section 3237 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of “principal” in section 2 of this title.

Minor changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$5,000”.

1984—Pub. L. 98-473 substituted “livestock” for “cattle” in section catchline and text.

### § 2317. Sale or receipt of livestock

Whoever receives, conceals, stores, barter, buys, sells, or disposes of any livestock, moving in or constituting a part of interstate or foreign commerce, knowing the same to have been stolen, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 807; Pub. L. 98-473, title II, §1114, Oct. 12, 1984, 98 Stat. 2149; Pub. L. 103-322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§419c, 419d (Aug. 18, 1941, ch. 366, §§4, 5, 55 Stat. 632).

Definitions of “cattle” and “interstate or foreign commerce”, contained in section 419a of title 18, U.S.C., 1940 ed., are incorporated in sections 10 and 2311 of this title.

Venue provision of said section 419d of title 18, U.S.C., 1940 ed., was omitted as completely covered by section 3237 of this title.

Minor changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$5,000”.

1984—Pub. L. 98-473 substituted “livestock” for “cattle” in section catchline and text.

### § 2318. Trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, and copies of motion pictures or other audio visual works, and trafficking in counterfeit computer program documentation or packaging

(a) Whoever, in any of the circumstances described in subsection (c) of this section, knowingly traffics in a counterfeit label affixed or designed to be affixed to a phonorecord, or a copy of a computer program or documentation or packaging for a computer program, or a copy of a motion picture or other audiovisual work, and whoever, in any of the circumstances described in subsection (c) of this section, knowingly traffics in counterfeit documentation or packaging for a computer program, shall be fined under this title or imprisoned for not more than five years, or both.

(b) As used in this section—

(1) the term “counterfeit label” means an identifying label or container that appears to be genuine, but is not;

(2) the term “traffic” means to transport, transfer or otherwise dispose of, to another, as consideration for anything of value or to make or obtain control of with intent to so transport, transfer or dispose of; and

(3) the terms “copy”, “phonorecord”, “motion picture”, “computer program”, and “audiovisual work” have, respectively, the meanings given those terms in section 101 (relating to definitions) of title 17.

(c) The circumstances referred to in subsection (a) of this section are—

(1) the offense is committed within the special maritime and territorial jurisdiction of the United States; or within the special aircraft jurisdiction of the United States (as defined in section 46501 of title 49);

(2) the mail or a facility of interstate or foreign commerce is used or intended to be used in the commission of the offense;

(3) the counterfeit label is affixed to or encloses, or is designed to be affixed to or enclose, a copy of a copyrighted computer program or copyrighted documentation or packaging for a computer program, a copyrighted motion picture or other audiovisual work, or a phonorecord of a copyrighted sound recording; or

(4) the counterfeited documentation or packaging for a computer program is copyrighted.

(d) When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all counterfeit labels and all articles to which counterfeit labels have been affixed or which were intended to have had such labels affixed.

(e) Except to the extent they are inconsistent with the provisions of this title, all provisions of section 509, title 17, United States Code, are applicable to violations of subsection (a).

(Added Pub. L. 87-773, §1, Oct. 9, 1962, 76 Stat. 775; amended Pub. L. 93-573, title I, §103, Dec. 31,

1974, 88 Stat. 1873; Pub. L. 94-553, title I, §111, Oct. 19, 1976, 90 Stat. 2600; Pub. L. 97-180, §2, May 24, 1982, 96 Stat. 91; Pub. L. 101-647, title XXXV, §3567, Nov. 29, 1990, 104 Stat. 4928; Pub. L. 103-272, §5(e)(10), July 5, 1994, 108 Stat. 1374; Pub. L. 103-322, title XXXIII, §330016(1)(U), Sept. 13, 1994, 108 Stat. 2148; Pub. L. 104-153, §4(a), (b)(1), July 2, 1996, 110 Stat. 1386, 1387.)

#### AMENDMENTS

1996—Pub. L. 104-153, §4(b)(1), substituted “Trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, and copies of motion pictures or other audio visual works, and trafficking in counterfeit computer program documentation or packaging” for “Trafficking in counterfeit labels for phonorecords and copies of motion pictures or other audiovisual works” in section catchline.

Subsec. (a). Pub. L. 104-153, §4(a)(1), substituted “a computer program or documentation or packaging for a computer program, or a copy of a motion picture or other audiovisual work, and whoever, in any of the circumstances described in subsection (c) of this section, knowingly traffics in counterfeit documentation or packaging for a computer program,” for “a motion picture or other audiovisual work.”

Subsec. (b)(3). Pub. L. 104-153, §4(a)(2), inserted “‘computer program’,” after “‘motion picture’.”

Subsec. (c)(2). Pub. L. 104-153, §4(a)(3)(A), struck out “or” at end.

Subsec. (c)(3). Pub. L. 104-153, §4(a)(3)(B), inserted “a copy of a copyrighted computer program or copyrighted documentation or packaging for a computer program,” after “enclose,” and substituted “; or” for period at end.

Subsec. (c)(4). Pub. L. 104-153, §4(a)(3)(C), added par. (4).

1994—Subsec. (a). Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$250,000”.

Subsec. (c)(1). Pub. L. 103-272 substituted “section 46501 of title 49” for “section 101 of the Federal Aviation Act of 1958”.

1990—Pub. L. 101-647 struck out comma after “phonorecords” in section catchline.

1982—Pub. L. 97-180 substituted “Trafficking in counterfeit labels for phonorecords, and copies of motion pictures or other audiovisual works” for “Transportation, sale or receipt of phonograph records bearing forged or counterfeit labels” in section catchline.

Subsec. (a). Pub. L. 97-180 substituted provision that violators of this section shall be fined not more than \$250,000 or imprisoned for not more than five years or both for provision that whoever knowingly and with fraudulent intent transported, caused to be transported, received, sold, or offered for sale in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds were recorded, to which or upon which was stamped, pasted, or affixed any forged or counterfeited label, knowing the label to have been falsely made, forged, or counterfeited would be fined not more than \$10,000 or imprisoned for not more than one year, or both, for the first such offense and would be fined not more than \$25,000 or imprisoned for not more than two years, or both, for any subsequent offense.

Subsecs. (b) to (e). Pub. L. 97-180 added subsecs. (b) and (c), redesignated former subsecs. (b) and (c) as (d) and (e), respectively, and in subsec. (d) as so redesignated struck out the comma after “judgment of conviction shall”.

1976—Pub. L. 94-553 designated existing provisions as subsec. (a) and substituted “\$10,000” for “\$25,000” and “\$25,000” for “\$50,000”, and added subsecs. (b) and (c).

1974—Pub. L. 93-573 substituted “not more than \$25,000 or imprisoned for not more than one year, or both, for the first offense and shall be fined not more than \$50,000 or imprisoned not more than 2 years, or both, for any subsequent offense” for “not more than \$1,000 or imprisoned not more than one year or both”.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-553 effective Jan. 1, 1978, see section 102 of Pub. L. 94-553, set out as a note preceding section 101 of Title 17, Copyrights.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961, 2320 of this title; title 19 section 1595a; title 49 section 80302.

### § 2319. Criminal infringement of a copyright

(a) Whoever violates section 506(a) (relating to criminal offenses) of title 17 shall be punished as provided in subsections (b) and (c) of this section and such penalties shall be in addition to any other provisions of title 17 or any other law.

(b) Any person who commits an offense under section 506(a)(1) of title 17—

(1) shall be imprisoned not more than 5 years, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution, including by electronic means, during any 180-day period, of at least 10 copies or phonorecords, of 1 or more copyrighted works, which have a total retail value of more than \$2,500;

(2) shall be imprisoned not more than 10 years, or fined in the amount set forth in this title, or both, if the offense is a second or subsequent offense under paragraph (1); and

(3) shall be imprisoned not more than 1 year, or fined in the amount set forth in this title, or both, in any other case.

(c) Any person who commits an offense under section 506(a)(2) of title 17, United States Code—

(1) shall be imprisoned not more than 3 years, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution of 10 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of \$2,500 or more;

(2) shall be imprisoned not more than 6 years, or fined in the amount set forth in this title, or both, if the offense is a second or subsequent offense under paragraph (1); and

(3) shall be imprisoned not more than 1 year, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than \$1,000.

(d)(1) During preparation of the presentence report pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

(2) Persons permitted to submit victim impact statements shall include—

(A) producers and sellers of legitimate works affected by conduct involved in the offense;

(B) holders of intellectual property rights in such works; and

(C) the legal representatives of such producers, sellers, and holders.

(e) As used in this section—

(1) the terms “phonorecord” and “copies” have, respectively, the meanings set forth in section 101 (relating to definitions) of title 17; and

(2) the terms “reproduction” and “distribution” refer to the exclusive rights of a copyright owner under clauses (1) and (3) respectively of section 106 (relating to exclusive rights in copyrighted works), as limited by sections 107 through 122, of title 17.

(Added Pub. L. 97-180, § 3, May 24, 1982, 96 Stat. 92; amended Pub. L. 102-561, Oct. 28, 1992, 106 Stat. 4233; Pub. L. 105-80, § 12(b)(2), Nov. 13, 1997, 111 Stat. 1536; Pub. L. 105-147, § 2(d), Dec. 16, 1997, 111 Stat. 2678; Pub. L. 107-273, div. C, title III, § 13211(a), Nov. 2, 2002, 116 Stat. 1910.)

#### REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (d)(1), are set out in the Appendix to this title.

#### AMENDMENTS

2002—Subsec. (e)(2). Pub. L. 107-273 substituted “107 through 122” for “107 through 120”.

1997—Subsec. (a). Pub. L. 105-147, § 2(d)(1), substituted “subsections (b) and (c)” for “subsection (b)”.

Subsec. (b). Pub. L. 105-147, § 2(d)(2)(A), substituted “section 506(a)(1) of title 17” for “subsection (a) of this section” in introductory provisions.

Subsec. (b)(1). Pub. L. 105-147, § 2(d)(2)(B), inserted “including by electronic means,” after “if the offense consists of the reproduction or distribution,” and substituted “which have a total retail value of more than \$2,500” for “with a retail value of more than \$2,500”.

Pub. L. 105-80, substituted “at least 10 copies” for “at least 10 copies”.

Subsecs. (c) to (e). Pub. L. 105-147, § 2(d)(3), added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

1992—Subsec. (b). Pub. L. 102-561, § 1, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Any person who commits an offense under subsection (a) of this section—

“(1) shall be fined not more than \$250,000 or imprisoned for not more than five years, or both, if the offense—

“(A) involves the reproduction or distribution, during any one-hundred-and-eighty-day period, of at least one thousand phonorecords or copies infringing the copyright in one or more sound recordings;

“(B) involves the reproduction or distribution, during any one-hundred-and-eighty-day period, of at least sixty-five copies infringing the copyright in one or more motion pictures or other audiovisual works; or

“(C) is a second or subsequent offense under either of subsection (b)(1) or (b)(2) of this section, where a prior offense involved a sound recording, or a motion picture or other audiovisual work;

“(2) shall be fined not more than \$250,000 or imprisoned for not more than two years, or both, if the offense—

“(A) involves the reproduction or distribution, during any one-hundred-and-eighty-day period, of more than one hundred but less than one thousand phonorecords or copies infringing the copyright in one or more sound recordings; or

“(B) involves the reproduction or distribution, during any one-hundred-and-eighty-day period, of more than seven but less than sixty-five copies infringing the copyright in one or more motion pictures or other audiovisual works; and

“(3) shall be fined not more than \$25,000 or imprisoned for not more than one year, or both, in any other case.”

Subsec. (c). Pub. L. 102-561, § 2, substituted “‘phonorecord’” for “‘sound recording’, ‘motion picture’, ‘audiovisual work’, ‘phonorecord’,” in par. (1) and “‘120’” for “‘118’” in par. (2).

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1956, 1961, 2320 of this title; title 17 section 109; title 49 section 80302.

### § 2319A. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances

(a) OFFENSE.—Whoever, without the consent of the performer or performers involved, knowingly and for purposes of commercial advantage or private financial gain—

(1) fixes the sounds or sounds and images of a live musical performance in a copy or phonorecord, or reproduces copies or phonorecords of such a performance from an unauthorized fixation;

(2) transmits or otherwise communicates to the public the sounds or sounds and images of a live musical performance; or

(3) distributes or offers to distribute, sells or offers to sell, rents or offers to rent, or traffics in any copy or phonorecord fixed as described in paragraph (1), regardless of whether the fixations occurred in the United States;

shall be imprisoned for not more than 5 years or fined in the amount set forth in this title, or both, or if the offense is a second or subsequent offense, shall be imprisoned for not more than 10 years or fined in the amount set forth in this title, or both.

(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court shall order the forfeiture and destruction of any copies or phonorecords created in violation thereof, as well as any plates, molds, matrices, masters, tapes, and film negatives by means of which such copies or phonorecords may be made. The court may also, in its discretion, order the forfeiture and destruction of any other equipment by means of which such copies or phonorecords may be reproduced, taking into account the nature, scope, and proportionality of the use of the equipment in the offense.

(c) SEIZURE AND FORFEITURE.—If copies or phonorecords of sounds or sounds and images of a live musical performance are fixed outside of the United States without the consent of the performer or performers involved, such copies or phonorecords are subject to seizure and forfeiture in the United States in the same manner as property imported in violation of the customs laws. The Secretary of the Treasury shall, not later than 60 days after the date of the enactment of the Uruguay Round Agreements Act, issue regulations to carry out this subsection, including regulations by which any performer may, upon payment of a specified fee, be entitled to notification by the United States Customs Service of the importation of copies or phonorecords that appear to consist of unauthorized fixations of the sounds or sounds and images of a live musical performance.

(d) VICTIM IMPACT STATEMENT.—(1) During preparation of the presentence report pursuant to Rule 32(c) of the Federal Rules of Criminal



Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

(2) Persons permitted to submit victim impact statements shall include—

(A) producers and sellers of legitimate works affected by conduct involved in the offense;

(B) holders of intellectual property rights in such works; and

(C) the legal representatives of such producers, sellers, and holders.

(e) DEFINITIONS.—As used in this section—

(1) the terms “copy”, “fixed”, “musical work”, “phonorecord”, “reproduce”, “sound recordings”, and “transmit” mean those terms within the meaning of title 17; and

(2) the term “traffic in” means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent to transport, transfer, or dispose of.

(f) APPLICABILITY.—This section shall apply to any Act or Acts that occur on or after the date of the enactment of the Uruguay Round Agreements Act.

(Added Pub. L. 103-465, title V, §513(a), Dec. 8, 1994, 108 Stat. 4974; amended Pub. L. 105-147, §2(e), Dec. 16, 1997, 111 Stat. 2679.)

#### REFERENCES IN TEXT

The customs laws, referred to in subsec. (c), are classified generally to Title 19, Customs Duties.

The date of the enactment of the Uruguay Round Agreements Act, referred to in subsecs. (c) and (f), is the date of enactment of Pub. L. 103-465, which was approved Dec. 8, 1994.

The Federal Rules of Criminal Procedure, referred to in subsec. (d)(1), are set out in the Appendix to this title.

#### AMENDMENTS

1997—Subsecs. (d) to (f). Pub. L. 105-147 added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961, 2320 of this title; title 49 section 80302.

### § 2320. Trafficking in counterfeit goods or services

(a) Whoever intentionally traffics or attempts to traffic in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services shall, if an individual, be fined not more than \$2,000,000 or im-

prisoned not more than 10 years, or both, and, if a person other than an individual, be fined not more than \$5,000,000. In the case of an offense by a person under this section that occurs after that person is convicted of another offense under this section, the person convicted, if an individual, shall be fined not more than \$5,000,000 or imprisoned not more than 20 years, or both, and if other than an individual, shall be fined not more than \$15,000,000.

(b) Upon a determination by a preponderance of the evidence that any articles in the possession of a defendant in a prosecution under this section bear counterfeit marks, the United States may obtain an order for the destruction of such articles.

(c) All defenses, affirmative defenses, and limitations on remedies that would be applicable in an action under the Lanham Act shall be applicable in a prosecution under this section. In a prosecution under this section, the defendant shall have the burden of proof, by a preponderance of the evidence, of any such affirmative defense.

(d)(1) During preparation of the presentence report pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

(2) Persons permitted to submit victim impact statements shall include—

(A) producers and sellers of legitimate goods or services affected by conduct involved in the offense;

(B) holders of intellectual property rights in such goods or services; and

(C) the legal representatives of such producers, sellers, and holders.

(e) For the purposes of this section—

(1) the term “counterfeit mark” means—

(A) a spurious mark—

(i) that is used in connection with trafficking in goods or services;

(ii) that is identical with, or substantially indistinguishable from, a mark registered for those goods or services on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered; and

(iii) the use of which is likely to cause confusion, to cause mistake, or to deceive; or

(B) a spurious designation that is identical with, or substantially indistinguishable from, a designation as to which the remedies of the Lanham Act are made available by reason of section 220506 of title 36;

but such term does not include any mark or designation used in connection with goods or services of which the manufacturer or producer was, at the time of the manufacture or production in question authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the

holder of the right to use such mark or designation;

(2) the term “traffic” means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent so to transport, transfer, or dispose of; and

(3) the term “Lanham Act” means the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (15 U.S.C. 1051 et seq.).

(f)(1) Beginning with the first year after the date of enactment of this subsection, the Attorney General shall include in the report of the Attorney General to Congress on the business of the Department of Justice prepared pursuant to section 522 of title 28, an accounting, on a district by district basis, of the following with respect to all actions taken by the Department of Justice that involve trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, copies of motion pictures or other audiovisual works (as defined in section 2318 of this title), criminal infringement of copyrights (as defined in section 2319 of this title), unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances (as defined in section 2319A of this title), or trafficking in goods or services bearing counterfeit marks (as defined in section 2320 of this title):

(A) The number of open investigations.

(B) The number of cases referred by the United States Customs Service.

(C) The number of cases referred by other agencies or sources.

(D) The number and outcome, including settlements, sentences, recoveries, and penalties, of all prosecutions brought under sections 2318, 2319, 2319A, and 2320 of this title.

(2)(A) The report under paragraph (1), with respect to criminal infringement of copyright, shall include the following:

(i) The number of infringement cases in these categories: audiovisual (videos and films); audio (sound recordings); literary works (books and musical compositions); computer programs; video games; and, others.

(ii) The number of online infringement cases.

(iii) The number and dollar amounts of fines assessed in specific categories of dollar amounts. These categories shall be: no fines ordered; fines under \$500; fines from \$500 to \$1,000; fines from \$1,000 to \$5,000; fines from \$5,000 to \$10,000; and fines over \$10,000.

(iv) The total amount of restitution ordered in all copyright infringement cases.

(B) In this paragraph, the term “online infringement cases” as used in paragraph (2) means those cases where the infringer—

(i) advertised or publicized the infringing work on the Internet; or

(ii) made the infringing work available on the Internet for download, reproduction, performance, or distribution by other persons.

(C) The information required under subparagraph (A) shall be submitted in the report required in fiscal year 2005 and thereafter.

(Added Pub. L. 98-473, title II, §1502(a), Oct. 12, 1984, 98 Stat. 2178; amended Pub. L. 103-322, title XXXII, §320104(a), title XXXIII, §330016(1)(U), Sept. 13, 1994, 108 Stat. 2110, 2148; Pub. L. 104-153, §5, July 2, 1996, 110 Stat. 1387; Pub. L. 105-147, §2(f), Dec. 16, 1997, 111 Stat. 2679; Pub. L. 105-225, §4(b), Aug. 12, 1998, 112 Stat. 1499; Pub. L. 105-354, §2(c)(1), Nov. 3, 1998, 112 Stat. 3244; Pub. L. 107-140, §1, Feb. 8, 2002, 116 Stat. 12; Pub. L. 107-273, div. A, title II, §205(e), Nov. 2, 2002, 116 Stat. 1778.)

#### REFERENCES IN TEXT

The Lanham Act, referred to in subsecs. (c) and (e)(1)(B), (3), also known as the Trademark Act of 1946, is act July 5, 1946, ch. 540, 60 Stat. 427, as amended, which is classified generally to chapter 22 (§1051 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1051 of Title 15 and Tables.

The Federal Rules of Criminal Procedure, referred to in subsec. (d)(1), are set out in the Appendix to this title.

The date of enactment of this subsection, referred to in subsec. (f), is date of enactment of Pub. L. 104-153, which was approved July 2, 1996.

#### CODIFICATION

Another section 2320 was renumbered section 2321 of this title.

#### AMENDMENTS

2002—Subsec. (e)(1)(B). Pub. L. 107-140 substituted “section 220506 of title 36” for “section 220706 of title 36”.

Subsec. (f)(1). Pub. L. 107-273, §205(e), designated existing provisions as par. (1), substituted “this title” for “title 18” wherever appearing, redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, of par. (1), and added par. (2).

1998—Subsec. (e)(1)(B). Pub. L. 105-225, §4(b)(1), as amended by Pub. L. 105-354, §2(c)(1), substituted “section 220706 of title 36” for “section 110 of the Olympic Charter Act”.

Subsec. (e)(2). Pub. L. 105-225, §4(b)(2), as amended by Pub. L. 105-354, §2(c)(1), inserted “and” after semicolon at end.

Subsec. (e)(3). Pub. L. 105-225, §4(b)(3), as amended by Pub. L. 105-354, §2(c)(1), substituted a period for “; and” at end.

Subsec. (e)(4). Pub. L. 105-225, §4(b)(4), as amended by Pub. L. 105-354, §2(c)(1), struck out par. (4) which read as follows: “the term ‘Olympic Charter Act’ means the Act entitled ‘An Act to incorporate the United States Olympic Association’, approved September 21, 1950 (36 U.S.C. 371 et seq.).”

1997—Subsecs. (d) to (f). Pub. L. 105-147 added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1996—Subsec. (e). Pub. L. 104-153 added subsec. (e).

1994—Pub. L. 103-322, §330016(1)(U), which directed the amendment of this section by striking “not more than \$250,000” and inserting “under this title”, could not be executed because the phrase “not more than \$250,000” did not appear in text subsequent to amendment of subsec. (a) by Pub. L. 103-322, §320104(a). See below.

Subsec. (a). Pub. L. 103-322, §320104(a), in first sentence, substituted “\$2,000,000 or imprisoned not more than 10 years” for “\$250,000 or imprisoned not more than five years” and “\$5,000,000” for “\$1,000,000”, and in second sentence, substituted “\$5,000,000 or imprisoned not more than 20 years” for “\$1,000,000 or imprisoned not more than fifteen years” and “\$15,000,000” for “\$5,000,000”.

## EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-354, §2(c), Nov. 3, 1998, 112 Stat. 3244, provided that the amendment made by section 2(c) is effective Aug. 12, 1998.

## TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1956, 1961 of this title; title 19 section 1595a; title 49 section 80302.

### § 2321. Trafficking in certain motor vehicles or motor vehicle parts

(a) Whoever buys, receives, possesses, or obtains control of, with intent to sell or otherwise dispose of, a motor vehicle or motor vehicle part, knowing that an identification number for such motor vehicle or part has been removed, obliterated, tampered with, or altered, shall be fined under this title or imprisoned not more than ten years, or both.

(b) Subsection (a) does not apply if the removal, obliteration, tampering, or alteration—

(1) is caused by collision or fire; or

(2) is not a violation of section 511 of this title.

(c) As used in this section, the terms “identification number” and “motor vehicle” have the meaning given those terms in section 511 of this title.

(Added Pub. L. 98-547, title II, §204(a), Oct. 25, 1984, 98 Stat. 2770, §2320; renumbered §2321, Pub. L. 99-646, §42(a), Nov. 10, 1986, 100 Stat. 3601; amended Pub. L. 103-322, title XXXIII, §330016(1)(N), Sept. 13, 1994, 108 Stat. 2148.)

## AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$20,000”.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1961, 2516 of this title.

### § 2322. Chop shops

(a) IN GENERAL.—

(1) UNLAWFUL ACTION.—Any person who knowingly owns, operates, maintains, or controls a chop shop or conducts operations in a chop shop shall be punished by a fine under this title or by imprisonment for not more than 15 years, or both. If a conviction of a person under this paragraph is for a violation committed after the first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to any fine and imprisonment.

(2) INJUNCTIONS.—The Attorney General shall, as appropriate, in the case of any person who violates paragraph (1), commence a civil action for permanent or temporary injunction to restrain such violation.

(b) DEFINITION.—For purposes of this section, the term “chop shop” means any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce.

(Added Pub. L. 102-519, title I, §105(a), Oct. 25, 1992, 106 Stat. 3385.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 33103.

## CHAPTER 113A—TELEMARKETING FRAUD

Sec.	Definition.
2325.	Enhanced penalties.
2326.	Mandatory restitution.
2327.	

## PRIOR PROVISIONS

A prior chapter 113A of part I of this title, consisting of section 2331 et seq. and relating to terrorism, was renumbered chapter 113B of part I of this title by Pub. L. 103-322, title XXV, §250002(a)(1), Sept. 13, 1994, 108 Stat. 2082.

### § 2325. Definition

In this chapter, “telemarketing”—

(1) means a plan, program, promotion, or campaign that is conducted to induce—

(A) purchases of goods or services;

(B) participation in a contest or sweepstakes; or

(C) a charitable contribution, donation, or gift of money or any other thing of value,

by use of 1 or more interstate telephone calls initiated either by a person who is conducting the plan, program, promotion, or campaign or by a prospective purchaser or contest or sweepstakes participant or charitable contributor, or donor; but

(2) does not include the solicitation of sales through the mailing of a catalog that—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustration; and

(D) has been issued not less frequently than once a year,

if the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders without further solicitation.

(Added Pub. L. 103-322, title XXV, §250002(a)(2), Sept. 13, 1994, 108 Stat. 2082; amended Pub. L. 107-56, title X, §1011(d), Oct. 26, 2001, 115 Stat. 396.)

## AMENDMENTS

2001—Par. (1). Pub. L. 107-56 added subpar. (C) and inserted “or charitable contributor, or donor” before semicolon in concluding provisions.